

**MINUTES**

**MARION CITY COUNCIL**

**PUBLIC HEARING – SALE OF REAL PROPERTY**

**TUESDAY, NOVEMBER 12, 2013 – 6:25 p.m.**

**REGULAR MEETING**

**November 12, 2013 – 6:30 p.m.**

A Public Hearing for Sale of Real Property to GSWSA was held on Tuesday, November 12, 2013 in the Council Chambers at City Hall at 6:25 p.m. over which Mayor Bobby L. Davis presided. Council members Michael Baker, Ronald Atkinson, Ralph Atkinson, Joseph Frazier and Odessa Gregg were present. Councilman Emerson Hunt was not in attendance. Also present were City Administrator Alan Ammons, City Treasurer Patricia Brown, City Clerk Pam Jones and City Attorney Kenneth Davis. Several residents and the press were in attendance.

Mayor Bobby L. Davis called the Public Hearing to order and opened the floor for comments regarding the proposed Sale of Real Property to Grand Strand Water Sewer Authority (GSWSA). With no comments from the public, Councilman Joseph Frazier made a motion to bring the Public Hearing to a close, seconded by Councilwoman Odessa Gregg; motion carried.

At 6:30 p.m. Mayor Davis called the regular meeting to order and Councilwoman Gregg gave the opening prayer. Mr. Ammons led the Pledge of Allegiance. Council members Michael Baker, Ronald Atkinson, Ralph Atkinson, Odessa Gregg, Emerson Hunt and Joseph Frazier were present. Also present were City Administrator Alan Ammons, City Treasurer Patricia Brown, City Clerk Pam Jones, and Kenneth Davis. Mayor Davis welcomed the large number of citizens and guests in attendance, along with the local media (Andrew Golden from the Star-Enterprise and HometownTV).

Councilman Michael Baker made a motion to accept the minutes from the regular meeting on October 8, 2013, and the special meetings on October 21, 2013 and October 30, 2013. The motion was seconded by Councilwoman Odessa Gregg. Councilman Ralph Atkinson raised a question on the special meeting October 30<sup>th</sup> minutes regarding the motion made by Councilman Baker to use the fund balance for the agreement with the Hobbs Group for a separate audit (\$11,500) and also money (\$2,987) from the fund balance to repair the Administrator's truck, asking where the funds were coming from. Mayor Davis commented that the money is coming from savings outside the budget and transferred into the budget. Mayor Pro-tem Atkinson asked that for the benefit of all in attendance, an explanation of what the fund balance budget is, be given. Mayor Davis deferred to Treasurer Patricia Brown who explained that it is not a budget, it is a fund balance of what remains after the audit and what has been saved over the years, along with money obtained from the sale of GSWSA. The motion carried.

Recreation Director Russ Smith, along with Mayor Davis thanked and gave special recognition to Geoff Fravor. Geoff volunteered his time and money in order to refurbish the four dugouts at Watsonia Park, which are now the Swamp Fox colors of maroon and gold and has improved the appearance of the facility. His family was in attendance and thanked the City for recognizing his efforts.

Mayor Davis also presented Geoff Fravor with the Mayor's Monthly Beautification Award for his efforts in keeping Marion beautiful.

Mr. Al Blake, Interim Director of HMRA, gave a short presentation on plans to clean up and move forward with plans for renovation at the vacant lots on Main Street and presented a rendering of future plans on that location. Mr. Blake requested the insurance reserve funds of \$16,300 for cleanup be earmarked for the HMRA project in order to get moving. Mayor Pro-tem Atkinson made a motion to earmark the money (\$16,300) for cleanup of said lots, seconded by Councilman Emerson Hunt; motion carried.

Ms. Justine Roberts of the Performing Arts and Science Academy (PASA) was present to introduce start-up plans for a Science Academy (SEMA) and After School and Summer Program. Project Director Frank Wilson also gave insight into the SEMA (Science, Engineering, Mathematics and Aerospace) Academy he and Ms. Roberts are trying to bring to Marion County. The program was founded by NASA and is designed to enhance student skills in science and mathematics (K-3 through high school and beyond). Phase One -First official SEMA site in South Carolina; Phase Two - Establish a complete SEMA campus facility, first in continental United States. When partnership with NASA is completed, they will install an aerospace engineering laboratory in our facility. I have partnered with Swamp Fox Transportation to transport kids to and from the program. Seeking funding and assistance from the City to make this program happen, including desks, chairs, tables and other classroom materials. Mayor Davis thanked them for their presentation and offered his support to help get the NASA/SEMA program started. Councilman Ralph Atkinson made a motion that the Mayor and Council offer a Letter of Support for NASA/SEMA project, seconded by Councilman Michael Baker; motion carried.

Ms. Debra Bethea and Mr. Antonio McRae gave a short presentation on Bounce & Play of SC, LLC, a new business they are opening in Marion. The business will provide indoor entertainment for children which will include inflatables, arcade games, big screen tv's for sports and other events. They also plan to offer day camps, summer camps, exercise programs and mentoring to encourage the youth in the community, and that any help or assistance from any organization is needed and appreciated. Mayor Davis commented that Ms. Bethea would be on the next *Swamp Fox Country* for Hometown TV to inform citizens of this new venture. Mayor Pro-tem wished them success on their new business.

Mr. Matt Croshaw and Mr. Chip Scruggs of Imagination Production Company submitted a proposal package for the use of C. D. Joyner Auditorium consisting of (1) blackout dates for use of the auditorium in 2014 and remainder of 2013, (2) consider amending city ordinance (7-5013) acknowledging that construction of a set is not an alteration to a public building and (3) input on how to improve partnership with the City. (A copy of the entire proposal is on file in the Clerk's office at City Hall.) Mr. Croshaw explained that the blackout dates do not mean the auditorium cannot be rented, but the renters would have to work

around the set. As for the request to amend the ordinance, Mr. Croshaw would like Council to consider the construction of a set not an alteration to a public building, which would keep them from coming before Council every time they need to build a set for their productions. Mayor Davis explained that he, as mayor, does not have the authority to authorize use of city facilities, but rather the Council does. Councilman Baker inquired as to who had given them permission to use the auditorium for their "Inherit the Earth" and "Walking Across Egypt" productions as Council had only given them permission to use the auditorium for their "Scrooge" production in 2012. Mr. Croshaw responded that former Mayor Rodney Berry had given them permission and they were not aware of the ordinance at the time of those productions. Mr. Croshaw also commented that they had invested \$8,770 in the auditorium to repair lighting, sound equipment and parts of the stage floor, to which Councilwoman Gregg asked who had given them permission to work on the auditorium and if Council had been consulted. Mr. Croshaw responded that former Mayor Berry had given permission. Mayor Davis thanked Imagination Productions for their successful productions and noted that in the June 2012 council meeting, he made the motion to allow them use of the auditorium. At this time, Mayor Davis called for any questions or comments from Council. Councilman Baker commented that there were three productions last year with only one request coming before Council (made in June 2012 for "Scrooge" for December) and the Resolution presented to the group in January 2013 was not an approval from Council to use the auditorium without making a request. Mayor Pro-tem Ronald Atkinson was concerned that the auditorium would be tied up for November and December and would be unavailable for use, except for the area in front of the curtains. Councilman Ralph Atkinson commented that he felt Imagination Productions was trying to determine if the City was going to continue to support their ministry in allowing them to use the auditorium as we have agreed to in the past; by Council, by Mayor or by implication that they could use it. Councilman Atkinson further commented that he would like to move forward and support this, but we cannot afford not to let someone else use the facility and, other than the week of the show, arrangements would need to be made for use by others. At the request of Mayor Davis, Mr. Croshaw requested the following dates for their productions: C. D. Joyner Auditorium now until December 23, the Opera House March 24-April 14, 2014, C. D. Joyner July 21 - September 1, 2014 and November 10, 2014 - December 22, 2014. Councilwoman Gregg expressed concern that no one else would be able to use the facility at those times, to which Mr. Croshaw explained the facility could still be used and the scenery would be on stage, but they would do their best to clear the stage. Councilwoman Gregg

stated that she could not make a decision until she saw something in writing. After more discussion on the scheduled blackout dates, Councilman Emerson Hunt made a motion to accept the blackout schedule, as presented, through December 2014 as requested by Imagination Productions, seconded by Mayor Pro-tem Ronald Atkinson. Councilman Joseph Frazier made a motion to amend the motion by Councilman Hunt that would allow Imagination Productions to keep the scheduled blackout dates through December 2013 and come back before Council to request use of the facility in 2014. Mayor Davis deferred to the Parliamentarian (Kenneth Davis) who stated that there is already a motion on the floor and that the person who made the original motion would have to accept or otherwise you have to proceed with the primary motion (which was made by Councilman Hunt, who did not accept the amendment). Councilman Ralph Atkinson asked to clarify the original motion to allow Imagination Productions use of City facilities though the end of 2014 and, if we support their ministry, they request that we approve what they have already started for the Christmas production and the three productions for next year. The motion was made and seconded to allow them to follow through with the proposal they presented and they want a clear understanding of the parameters of the partnership with the City of Marion and the Imagination Production Company; whether the City is going to support them or they need to look for another venue. After further comments, Mayor Davis asked that attorney Davis clarify the motion and amendment as presented to which attorney Davis stated that with respect to Mr. Frazier's amendment, he thinks the proposal as submitted can probably use some refinement that will save the town a lot of money down the line if the wrong people get hold of it, Attorney Davis suggested adopting the proposal through 2013 and give the opportunity for the town to refine the arrangement and keep the town out of a situation that could be costly. His opinion is that there are some things in the proposal that can be refined to make it more litigation proof. Mayor Davis then called for a vote. Councilman Joseph Frazier stated that his amendment still stands; that would allow Imagination Productions to finish out 2013 and come back and re-visit 2014 and move forward from there, seconded by Councilman Michael Baker. Councilman Baker commented that everyone is in support of the group; we just want the legal logistics of the arrangement to be done. Motion carried 5-2 with Mayor Davis, Councilman Michael Baker, Councilman Ralph Atkinson, Councilman Joseph Frazier and Councilwoman Odessa Gregg voting **yes** and Mayor Pro-tem Ronald Atkinson and Councilman Emerson Hunt voting **no**. Mayor Davis commented that the City would work with them and they had the approval to move forward with the 2013 program.

Imagination Productions is preparing a grant requesting \$154,396 from the Marion County Healthcare Foundation to finish renovations at C. D. Joyner (included in written proposal on file in Clerk's office). Attorney Davis will review the grant proposal and after lengthy discussion, Councilman Ralph Atkinson made a motion for Imagination Productions to move forward in their pursuit of the aforementioned grant, predicated on the outcome of the vote for use of City facilities in 2014, to be placed on the December 10, 2013 agenda. The motion was seconded by Mayor Pro-tem Ronald Atkinson and carried.

Councilman Ralph Atkinson made a motion to accept the 2<sup>nd</sup> reading on Ordinance 13-08 - An Ordinance to Sell Real Property to GSWSA, seconded by Mayor Pro-tem Ronald Atkinson; motion carried.

#### **ADMINISTRATOR'S REPORT**

Mr. Ammons reported that Grice's pool has been inspected by DHEC and we passed with flying colors.

The City-County Cleanup will be held Friday, November 15<sup>th</sup> from 8:00 a.m. to 12:00 noon. Mayor Davis will be speaking at MIS, but will join the cleanup upon leaving the school. Councilman Frazier asked for clarification on what was expected to which Mayor Davis commented that Council members would be assigned a truck ride on, which shows Council is concerned about the beautification of our City. Mayor Pro-tem Atkinson inquired as to why cleanup day was changed from Saturday to Friday, to which Mr. Ammons responded that this done to accommodate the County as this is their cleanup day (the City's is held in the spring).

Eric Jones of the Street Department was named *October Employee of the Month* and presented with a gift certificate.

#### **CITY ATTORNEY'S LEGAL UPDATE**

Attorney Kenneth Davis had nothing to report at this time.

#### **DEPARTMENTAL REPORTS**

Mayor Davis stated that all monthly Departmental Reports were sent to Council in their packets.

Mr. Ronnie Sanders, Street Department Superintendent asked that everyone please watch out for the workers who are out all over town putting up Christmas decorations.

Captain Cindy Barr commented that she received a donation of clothes and shoes and they had been distributed.

#### **DISTRICTS AND CITY UPDATE FROM COUNCIL AND MAYOR**

Councilman Emerson Hunt commented that he should have been, but was not notified about the special meeting at 9:00 a.m. He further commented that there are various means of communication including email, texting and telephone, any of which could have been used to contact him.

Councilwoman Odessa Gregg thanked Mr. Ammons for the hard work he has been doing in District 5.

Councilman Ralph Atkinson requested that Mr. Mark Deering be moved up on the Agenda to make his comments before Executive Session, due to the amount of time spent on previous presentations. Mayor Davis commented that we have a phone call to make during Executive Session and we need to go in right away and do that, which is why it is on the agenda like that.

Mayor Pro-tem Ronald Atkinson commented that the Veteran's Day community celebration went well.

Councilman Joseph Frazier commented that the Veteran's Day affair was very well attended and there were a lot of positive comments. He commented that he had not heard anything regarding his previous request for speed limit signs on McEachern Hts. Mr. Ammons responded that he talked with SCDOT and that request has been sent to the Traffic Engineering Department, located in Florence, and are waiting on a projected time they will be done. Mr. Ammons commented that the owners of the green house on Dunlop St. have been notified that the property has been identified as a nuisance and would be cleaned up. Also, problems with trash at 106 Withlacoochee Ave. have been taken care of.

Councilman Michael Baker commented that the pool looks good.

Mayor Bobby L. Davis commented that Veteran's Day went really well with very diverse group in attendance. A group that will be doing taxes for free for our community is asking to use a classroom at C. D. Joyner, and that request will be placed on the next agenda. City Grant Writer, Mrs. Vickie Nichols, graduated from University of South Carolina Continuing in Professional Education and presented with a certificate, *who is entitled to all the honors, rights and privileges, pertaining thereof*, given the 18<sup>th</sup> day of September. There will be another State of the City address on December 2<sup>nd</sup> at 6:00 p.m. at the Opera House for those who were unable to attend in October. At this time Mayor Davis passed out a handout in regards to the appointment of Mr. Robert Lee as City Attorney at a special meeting on September 22, 2009. At this time, City Clerk Pam Jones read this portion of those minutes: "*Council discussed the position of City Attorney. Councilman Michael Baker made a motion to appoint Attorney Robert Lee as City attorney, seconded by Councilwoman Poiette Bromell. Mayor Pro-tem Ralph Atkinson made a motion to appoint Attorney Charles Curry as City Attorney, seconded by Councilman Ronald Atkinson. The votes were taken and Attorney Robert Lee received votes from Councilman Bobby Davis, Councilwoman Poiette Bromell, Councilman Michael Baker and Councilwoman Betsy Atkinson. Attorney Charles Curry received votes from Mayor Pro-tem Ralph Atkinson, Councilman Ronald Atkinson and Mayor Rodney Berry. After all votes were taken, Mayor Berry announced that Attorney Robert Lee would be offered the position of City Attorney.*" Also in the handout are two letters that were printed in the Marion Star, one of which only had a portion of the letter printed. Mayor Davis stated that the dates and times (of previous special meetings) were not printed in the Marion Star and, as citizens you can call the Clerk's office and ask for the dates and times of meetings in 2013 and 2011. Councilman Hunt attempted to comment and was told by Mayor Davis not to interrupt. Councilman Hunt again commented and at that time was gavelled down and called out of order by Mayor Davis. Mayor Davis then read a portion of his letter to the Marion Star that was not printed and also briefly went over comments in the Star that he was not in agreement with (these letters on file with minutes).

#### **EXECUTIVE SESSION**

Councilman Michael Baker made a motion to enter Executive Session to discuss: (a) Legal Advice - former Employee Lawsuit, (b) Legal Advice - Responding to Public Information Request, (c) Legal Advice - Personnel (Police Department), (d) Legal Advice - Council Voting Procedures, seconded by Councilman Joseph Frazier; motion carried.

Upon returning from Executive Session, Mayor Davis stated that no action was taken. Councilman Michael Baker made a motion to enter Open Session, seconded by Councilman Joseph Frazier; motion carried

Regarding the former employee lawsuit, Councilman Michael Baker made a motion to up the formal proposal to one year's salary, seconded by Councilman Joseph Frazier. Councilman Ralph Atkinson asked if the motion is to settle the lawsuit with the former employee and this has been working through for about four years and we're right short of going to court, and they have not accepted the offer that was made and the offer the insurance company made, and anything we offer would have to come out of City coffers. Mayor Davis requested that Councilman Baker restate his motion. Councilman Baker, for clarification, made a motion to offer one year's salary in conjunction with the insurance fund, in settling the lawsuit. Motion carried with Mayor Bobby L. Davis, Councilman Michael Baker, Councilwoman Odessa Gregg and Councilman Joseph Frazier voting **yes** and Mayor Pro-tem Ronald Atkinson and Councilman Ralph Atkinson voting **no**. Councilman Emerson Hunt abstained due to his unfamiliarity of this case. Attorney Davis stated that he could only abstain for a conflict of interest and as this was not, his vote would be counted as a **yes** vote.

There were no comments on responding to public information requests.

There were no comments regarding Council voting procedures.

#### **PUBLIC COMMENTS**

Mr. Mark Deering was present to comment on campaign promises of the Mayor. Mr. Deering stated that since Chief Smith (as Mayor Davis' campaign manager) gave campaign contributions to Mayor Davis and Councilman Baker, Mayor Davis should have recused himself from voting on the lawsuit in this meeting as he recused himself from voting on the lease of his property. Mayor Davis stated that Chief Smith was not his campaign manager. Mr. Deering commented that there appears to be a lot of back door dealing and there is no integrity, no ethical standards whatsoever. At this time Mayor Davis warned Mr. Deering that according to our ordinance no Council member or Mayor will be degraded, character assassinations or anything like that or you will be asked to leave. Mr. Deering stated that although he originally did not support Mayor Davis, that if he took care of the citizens, he would support him; his belief is that is not presently happening as there is no transparency as promised, things are done behind closed doors and in special meetings. Mr. Deering finished his comments by saying that he wants the community to work, that he wants fairness, but his opinion is there none. Mayor Davis thanked him for coming.

Mayor Davis commented that he was one of those persons who voted for Robert Lee and has voted many times with Mr. Atkinson and others and will continue to do what he thinks is in the best interest of the citizens of Marion. He further commented that he thinks this is not about what he or Council is doing wrong, but sour grapes about the election. The naysayers will be left behind and we are going to move this City forward. We have good things going on in the City and great support from most citizens, except for those who can't forget the fact they lost the election. We will continue to move forward and let the citizens know we care by the State of the City address and having Town Hall meetings so people are now able to come and express their opinions. Mayor Davis commented that most people, white and black, that talk with him appreciate what he is trying to do.

#### **ADJOURNMENT**

With no further business, Councilman Michael Baker made a motion to adjourn, seconded by Councilman Joseph Frazier; motion carried.

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Mayor Bobby L. Davis

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City Clerk Pam Jones

Taped: November 12, 2013